

AUG 17 2007

REMARKS AND ARGUMENTS

Claims 1, 3, 5 and 10 are pending, of which claim 1 is the sole independent claim. No change has been made in the claims by this Response.

Claims 1, 3, 5 and 10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sonnabend (U. S. Pat. No. 4,384,096) or Gassenmeier *et al.* (U. S. Pat. Appl. No. 2001/0031714 A1; "Gassenmeier") each taken alone and in view of Eisenhart *et al.* (U.S. Pat. No. 5,451,641; "Eisenhart"). Applicants respectfully traverse the rejections.

In addressing Applicants' objection to the conclusory nature of the obviousness rejection, the final Office Action states that multi-stage polymerization is well-known, and that one skilled in the art "readily appreciates that the 'multi-stage' polymerization techniques of Eisenhart would provide a desirable polymer when practiced within the teachings of Sonnabend or Gassenmeier." Applicants object to this formulation as well for having no support in the facts. Although multi-stage polymers are known, there is no reason known to Applicants that one would expect them to be "desirable" within the technology of Sonnabend or Gassenmeier. Indeed, one might expect that a multi-stage polymer would not function as well. Multi-stage polymers are believed to have a core-shell structure, as described on page 8. The claims recite a polymer whose shell (second stage) is more cross-linked than its core or is not alkali soluble (and hence less polar than the core). Such a polymer might have been believed not release active ingredients as well as a single-stage polymer. In any event, there is no reason in the references, or otherwise of record, for one to expect the claimed multi-stage polymers to release active ingredients. Therefore, the claims cannot be obvious over the references, and the rejection should be withdrawn.

The final Office Action asserts also that there has been no showing of unexpected results for multi-stage polymers. No such showing is required because multi-stage polymers are structurally distinct from single-stage polymers, and the claim limitations are not taught by the references. Moreover, Applicants respectfully point out that pages 36-37 describe experiments showing that multi-stage polymers swell to release active ingredients only upon the desired change in ionic strength. Single-stage polymers do not provide this response.

Moreover, the final Office Action mischaracterizes Applicants' argument with regard to Eisenhart, asserting that Applicants argue that it is "directed to the release of active ingredients" (see para. 7). Careful review of the Response filed April 12 will show that Applicants have made no such statement. Eisenhart teaches multi-stage polymers only in the context of thickeners, and hence cannot suggest to one skilled in the art that they would be suitable for release of active ingredients.

Claims 1, 3, 5, and 10 were provisionally rejected for obviousness-type double patenting over claims 1 and 3-10 and 1, 3, 9 and 10 of copending Application Nos. 10/348,375 and 10/619,061, respectively (neither has been allowed to date). Applicants

respectfully submit that none of the claims of the cited copending applications discloses or suggests the multi-stage polymers recited in the present claims, and that the provisional double patenting rejections should be withdrawn as well.

Applicants believe that the foregoing arguments have addressed the rejections. However, if the Examiner has any further objections to the application, Applicants respectfully request that the Examiner contact Applicants' undersigned attorney by telephone at (847) 649-3891 to discuss any remaining issues.

Respectfully submitted,



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